

instruct them in matters of right; they have had counsel of their own selection; they have had the privilege of choosing their own jury, from a large number of citizens collected from all parts of the vicinity (and if ever there was a mode more calculated to secure the proper administration of justice, it is that adopted by us in this particular); they have had the advantage of the purse of the government to procure any testimony within the process of the court; all witnesses whose testimony they desired are in attendance at the government expense; and they have had counsel to aid them, not only in relation to the law and the examination of witnesses, but also to urge all matters as well of testimony as of the law, to the jury. Have they not then had all the privileges which the mildest system of laws could extend to them? Had this case, which has already occupied the attention of this court twelve days, at an average of six or seven hours per day, been tried at the Old Bailey, it would have been decided between the rising and the setting of the sun. This is not all; besides the indulgences already stated, they have had the benefit of a most laborious, ingenious, and talented defense. The junior counsel, who opened this case, did it with ability and feeling; and presented, in my opinion, every point for the prisoners of which the case was susceptible. His address was decked with all the graces of a brilliant imagination; and with all the attractions of the most persuasive eloquence. But the most refined and elaborate texture of reasoning is too often like the most beautiful fabric of art, necessarily composed of the frailest materials. And if the defense be inconclusive to establish the innocence of the prisoners, I may remark (to use the words of Lord Bacon, on a similar occasion), that the fault is in the stuff, and not in the workman. The closing counsel brought to the cause his untiring zeal, his great industry, his various and profound learning; and exhibited a labor, and I had almost said a desperation, which I think must have satisfied you, gentlemen, that the cause pressed heavily on him, and that he was fully conscious of the weight of the load,—the dead lift,—he had undertaken to carry.